

## 48A C.J.S. Judges § 98

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

## IV. Standards of Conduct; Restrictions and Prohibitions


### B. Nature of Conduct Proscribed or Prohibited

#### 2. Political Activity

### § 98. Election of judge

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#### West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(1), 11(2), 21

**Under rules applicable to election campaigns for judicial office, it may be improper for a candidate to make misrepresentations of fact, or to make pledges or promises of conduct in office other than faithful and impartial performance of duties of office.**

Provisions of the code of judicial conduct apply to judicial candidates as well as to sitting judges.<sup>1</sup>

Judicial conduct rules may prohibit a judicial candidate from knowingly or recklessly distributing false or misleading information.<sup>2</sup> Under rules applicable to election campaigns for judicial office, it may be improper for a candidate to make misrepresentations of fact, or to make pledges or promises of conduct in office other than faithful and impartial performance of duties of office,<sup>3</sup> but accurate criticism of an opponent for the office may be permissible.<sup>4</sup>

The code of judicial conduct does not restrict a judicial candidate from announcing his or her views on a particular legal issue, but it does prohibit the candidate from making pledges or promises as to how the candidate may rule on any case which may come before him or her as a judge other than a pledge to follow the law.<sup>5</sup> A judicial canon's prohibition against campaign statements which appear to commit a judicial candidate with respect to legal issues which are likely to come before the court to which he or she seeks election is not impermissibly vague so as to create a risk of discriminatory enforcement.<sup>6</sup>

A judge may be permitted to undertake political activity that is incident to his or her campaign for reelection.<sup>7</sup> Some limited activity by judges in response to active opposition in their own retention elections is permitted.<sup>8</sup>

A judicial candidate must obey rules of judicial conduct governing a candidates' participation in campaign fundraising.<sup>9</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Conduct of probate judge in seeking "lots of support" for his judicial candidacy, including donations to his campaign's committee, on his law firm website violated canon of judicial conduct prohibiting candidate for election or reelection as probate judge from personally soliciting campaign contributions, though website solicitation generated absolutely no donations, donations were directed to be made to campaign committee and not to judge personally, and website solicitation was removed promptly after Committee on Judicial Responsibility and Disability notified judge that website solicitation might have constituted ethical violation. Me. Code of Jud. Conduct, Canon 4.2(C)(1). [Matter of Nadeau, 2017 ME 121, 168 A.3d 746 \(Me. 2017\)](#).

Judge violated Judicial Conduct Rule providing that a judge or judicial candidate shall not knowingly, or with reckless disregard for the truth, make any false or misleading statement, where judge attributed to herself two years of law experience while she was a law student under the student practice rules, but while not recognized as a member of the Montana Bar or admitted to practice, judge gave herself credit for approximately 80 jury trials while she was on inactive status with the Montana Bar and which she attended while a law clerk for a federal judge, and judge made false and misleading statements, while a candidate for District Judge, to law school about potential student to preclude that student's admittance because of a personal grievance. Mont. Code of Jud. Conduct, Rule 4.1(A)(10). [Halverson v. Harada, 2020 MT 89, 461 P.3d 869 \(Mont. 2020\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Okla.—Judicial Ethics Opinion 2010-5, 2010 OK JUD ETH 5, 239 P.3d 222 (Okla. Jud. Eth. 2010).
- 2 Ohio—In re Judicial Campaign Complaint Against Moll, 135 Ohio St. 3d 156, 2012-Ohio-5674, 985 N.E.2d 436 (2012).
- 3 Kan.—In re Baker, 218 Kan. 209, 542 P.2d 701 (1975).  
  
**Misrepresentation of qualifications**  
Candidate's actions while seeking various judicial offices violated Canon of judicial conduct governing campaign misconduct and misrepresentation; candidate lied repeatedly about his qualifications and other facts on the numerous questionnaires he submitted.  
  
Pa.—In re Nocella, 79 A.3d 766 (Pa. Ct. Jud. Discipline 2013).
- 4 Kan.—In re Baker, 218 Kan. 209, 542 P.2d 701 (1975).
- 5 Okla.—Judicial Ethics Opinion 2010-5, 2010 OK JUD ETH 5, 239 P.3d 222 (Okla. Jud. Eth. 2010).  
  
As to judge's right to express personal opinion, see § 93.
- 6 U.S.—Ackerson v. Kentucky Judicial Retirement and Removal Com'n, 776 F. Supp. 309 (W.D. Ky. 1991).
- 7 N.J.—Matter of Conda, 72 N.J. 229, 370 A.2d 16 (1977).  
  
N.Y.—Elias v. Ellenville Chapter of Nat. Ass'n for Advancement of Colored People, 37 A.D.2d 316, 325 N.Y.S.2d 302 (3d Dep't 1971).
- 8 Iowa—In re Inquiry Concerning McCormick, 639 N.W.2d 12 (Iowa 2002).
- 9 Ohio—In re Judicial Campaign Complaint Against Stormer, 2013-Ohio-4584, 2013 WL 5746134 (Ohio 2013).